

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

VIVA FOOD MART, FARAZ INC.,

Plaintiff,

V.

FCCI INSURANCE COMPANY,

Defendants.

§
§
§
§
§
§
§
§
§

CIVIL ACTION NO. 1:17-cv-1099

DEFENDANT FCCI INSURANCE COMPANY'S NOTICE OF REMOVAL

TO THE UNITED STATES DISTRICT COURT:

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendant FCCI Insurance Company ("FCCI"), in Cause No. D-1-GN-17-003310, pending in the 53rd Judicial District Court of Travis County, Texas, files this Notice of Removal from that court to the United States District Court for the Western District of Texas, Austin Division, on the basis of diversity of citizenship and amount in controversy and respectfully shows:

1. Both at the time the lawsuit was filed, and at the time of removal, Plaintiff Viva Food Mart, Faraz, Inc. ("Viva Mart") was and remains a corporation organized under the laws of the State of Texas and has its principal place of business in Texas. Plaintiff Viva Mart is a citizen of Texas.

2. Both at the time the lawsuit was filed, and at the time of removal, Defendant FCCI Insurance Company was and remains an insurer organized and existing under the laws of the State of Florida and having its principal place of business in Sarasota, Florida. Defendant FCCI is a citizen of Florida. *See* Exhibit A.

3. Viva Mart served FCCI with Plaintiffs' Original Petition and process on October 31, 2017, by serving it registered agent for service of process. *See* Exhibit B-5. Pursuant to 28 U.S.C. § 1446(b), FCCI timely removes this case within thirty (30) days of its receipt of the initial pleading.

4. The amount in controversy exceeds \$75,000. *See* Exhibit B-2 at ¶ 6.a. Viva Mart sues FCCI for alleged damages resulting to its business at a result of a fire, claiming negligent hiring, supervision, and management and breach of contract.

5. By virtue of diversity of citizenship and amount in controversy, the United States District Courts have original jurisdiction over this case.

6. Venue is proper in this district under 28 U.S.C. § 1441(a) because the state court where the action is pending is located in this district.

7. Simultaneously with the filing of this Notice of Removal, attached as Exhibit "B" is the Index of State Court Documents clearly identifying each document and indicating the date the document was filed in state court. Exhibit B includes a copy of the docket sheet and all documents filed in the state court action enumerated as Exhibit B-1 thru Exhibit B-5 as identified on the Index of State Court Documents.

8. A copy of this notice is also concurrently being filed with the state court and served upon opposing counsel.

9. Accordingly, FCCI removes this case to this Court for trial and determination.

Respectfully submitted,

/s/ J. Richard Harmon

J. Richard Harmon
State Bar No. 09020700
Jo Allison Stasney
State Bar No. 19080280
THOMPSON, COE, COUSINS & IRONS, L.L.P.
Plaza of the Americas
700 N. Pearl Street, Twenty-Fifth Floor
Dallas, TX 75201-2832
Telephone: (214) 871-8200
Telecopy: (214) 871-8209
rharmon@thompsoncoe.com
jstasney@thompsoncoe.com

COUNSEL FOR FCCI INSURANCE COMPANY

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing Notice of Removal was served through the CM/ECF Filing System and certified mail return receipt requested to counsel below on this 20th day of November, 2017.

Rahul Lamba
Lamba & Associates, PC
11211 Katy Freeway, Suite 250
Houston, Texas 77079
lawofficeofrahullamba@gmail.com

/s/ Jo Allison Stasney
Jo Allison Stasney
